IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

UNITED STATES OF AMERICA      *
                              *
        vs.                   *        CR 106-084
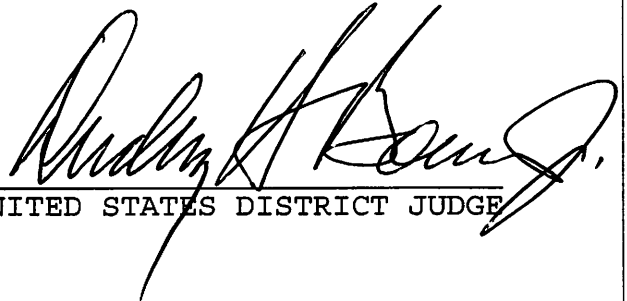                              *
AUDIE RAYNARD ALSTON          *

O R D E R

By Order of July 12, 2016, this Court explained to Defendant Audie Raynard Alston that his pro se motion to appoint counsel would be recharacterized as a motion under 28 U.S.C. § 2255. (Doc. No. 32 (citing Castro v. United States, 540 U.S. 375 (2003)).) On August 4, 2016, Attorney Kimberly L. Copeland filed a document on Defendant's behalf entitled "Notice to Amend Motion." Although titled a "Notice," Defendant moves therein to amend the pro se motion to appoint so as to assert "any and all § 2255 claims." (Doc. No. 36, at 1.)

Upon consideration, the motion to amend (doc. no. 36) is **DENIED AS MOOT.** The Order of July 12, 2016 specifically provides that Defendant may amend his pro se motion to appoint counsel by filing the standard form for § 2255 motions used in this district. Defendant is forewarned that he must set forth all his § 2255 claims on the attached form, including his

<u>Johnson</u> claim. In short, the Order of July 12, 2016 gives Defendant three options: (1) withdraw his motion to appoint counsel; (2) allow his motion to appoint counsel to stand as his § 2255 motion; or (3) amend his motion to appoint counsel by filing the standard § 2255 form to include all of his § 2255 claims. Defendant had been given until August 11, 2016 to make his election. Given the apparent lack of confusion evidenced by the recent motion to amend, however, Defendant may have until August 18, 2016 to make his election. It is not necessary to file any other motion - on August 18, 2016, this Court will either consider the <u>pro se</u> motion to appoint counsel as Defendant's § 2255 petition or, if he chooses to file an amended § 2255 motion on the standard form, it will consider the amended form as his § 2255 petition.

**ORDER ENTERED** at Augusta, Georgia, this _____ day of August, 2016.

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UNITED STATES DISTRICT JUDGE